

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

E. SCOTT BRADLEY  
*JUDGE*

SUSSEX COUNTY COURTHOUSE  
1 The Circle, Suite 2  
GEORGETOWN, DE 19947

June 22, 2009

Valerie Miller  
33225 West Edgemoor St.  
Lewes, DE 19958

Local Book Publishing, Inc.  
Attn: Kevin Neuberger  
380 E. Main St. Bldg B, Suite 110  
Midway, UT 84049

**RE: Valerie Miller v. Local Book Publishing, Inc.**  
**C.A. No. S08A-07-003-ESB**  
**Letter Opinion**

Date Submitted: March 9, 2009

Dear Ms. Miller and Mr. Neuberger:

This is my decision on Valerie Miller's appeal of the Unemployment Insurance Appeal Board's decision that she was discharged from her job with Local Book Publishing, Inc. for just cause because she did not attend mandatory meetings. Miller was a sales representative for Local Book for five months in 2007. During this time, Local Book was working on the "Rehoboth Book," which covered Eastern Sussex County, Georgetown, and Millsboro. Miller was assigned to the Lewes/Rehoboth area.

Local Book requires its sales representatives to gather in a central meeting place and phone in to a manager at the start and end of each work day. Local Book holds these meetings so that the sales representatives can ask questions, talk to each other about any problems they have experienced, and to report their daily sales. This policy is in the employee handbook that is provided to all new employees.

Miller did not have a problem with these meetings until they were moved from Lewes to Georgetown. Miller told Local Book that the Georgetown location was too far from her sales area and that she would not go to them. Local Book told Miller that if she did not go to the meetings, then there would be consequences. When Miller did not go to the meetings as directed, Local Book terminated her. Miller then filed a claim for unemployment benefits. The Board denied Miller's claim for unemployment benefits, reasoning that her termination was for just cause. Miller then filed an appeal with this Court.

### STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. On appeal from a decision of the Board, this Court is limited to a determination of whether there is substantial evidence in the record sufficient to support the Board's findings, and that such findings are free from legal error.<sup>1</sup> Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>2</sup> The Board's findings are conclusive and will be affirmed if supported by "competent evidence having probative value."<sup>3</sup> The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.<sup>4</sup> It merely determines if the evidence is

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<sup>1</sup> *Unemployment Ins. Appeals Board of the Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975); *Longobardi v. Unemployment Ins. Appeal Board*, 287 A.2d 690, 692 (Del. Super. 1971), *aff'd* 293 A.2d 295 (Del. 1972).

<sup>2</sup> *Oceanport Ind. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986), *app. disp.*, 515 A.2d 397 (Del. 1986).

<sup>3</sup> *Geegan v. Unemployment Compensation Commission*, 76 A.2d 116, 117 (Del. Super. 1950).

<sup>4</sup> *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

legally adequate to support the Board's factual findings.<sup>5</sup> Absent an error of law, the Board's decision will not be disturbed where there is substantial evidence to support its conclusions.<sup>6</sup>

### DISCUSSION

Miller argues that Local Book did not prove that she was terminated for just cause. An employee may be disqualified from receiving unemployment benefits when discharged for just cause.<sup>7</sup> “Just cause” has been defined as a “willful or wanton act in violation of either the employer’s interests, or of the employee’s duties, or of the employee’s expected standard of conduct.”<sup>8</sup> “Willful or wanton conduct requires a showing that one was conscious of [her] conduct or recklessly indifferent of its consequences.”<sup>9</sup> “Violation of a reasonable company rule may constitute just cause for discharge, but the employee must be aware that the policy exists and may be cause for discharge.”<sup>10</sup> The Court has adopted a two-step analysis to determine whether there was just cause: 1) whether a policy existed, and if so, what conduct was prohibited, and 2) whether the employee was apprised of the policy and if so, how was he or she made aware.”<sup>11</sup>

The Board found that Local Book’s employee handbook required its employees to attend a meeting at the beginning and end of each day. Miller initially attended these meetings, but stopped

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<sup>5</sup> 29 Del.C. § 10142(d).

<sup>6</sup> *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

<sup>7</sup> 19 Del.C. § 3314(2).

<sup>8</sup> *Avon Products, Inc., v. Wilson*, 513 A.2d 1315, 1317 (Del. 1986).

<sup>9</sup> *Coleman v. Dept. of Labor*, 288 A.2d 285, 288 (Del. Super. 1972).

<sup>10</sup> *McCoy v. Occidental Chem. Corp.*, 1996 WL 111126, at \*3 (Del. Super. Feb. 7, 1996).

<sup>11</sup> *Id.*

going after they were moved from Rehoboth to Georgetown. The Board found that Miller was discharged for refusing to attend a mandatory meeting. Miller told the Board that she refused to attend the meetings in Georgetown because it was a waste of her time. The Board also found that Miller understood that she would be discharged for not attending the meetings. The Board's findings satisfy the two-step analysis outlined above and are based upon substantial evidence in the record. Simply because Miller disagreed with Local Book's policy regarding meetings is not a valid reason to not comply with it and her violation of Local Book's policy is just cause to terminate her employment.

### **CONCLUSION**

The Board's decision is AFFIRMED.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley